

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NORIYUKI JINBO and AKIRA TAKASU

Appeal No. 2001-1269
Application No. 08/939,685

ON BRIEF

Before HAIRSTON, DIXON, and BLANKENSHIP, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 22.

The disclosed invention relates to an optical system driving device that comprises a driving unit for driving the optical system, and a controller for controlling the driving unit. During a period in which the acceleration of the optical system is increasing, the controller introduces an

Appeal No. 2001-1269
Application No. 08/939,685

easement period into the acceleration period to temporarily ease acceleration of the optical system.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. An optical system driving device comprising:

a driving unit for driving an optical system; and

a controller for controlling the driving unit so as to create an easement period, during a period in which the acceleration of the optical system is increasing, for temporarily easing acceleration during an acceleration period in which the optical system accelerates to reach a predetermined running velocity.

The reference relied on by the examiner is:

Scholten	4,254,371	Mar. 3, 1981
----------	-----------	--------------

Claims 1 through 22 stand rejected under 35 U.S.C.

§ 102(b) as being anticipated by Scholten.

Reference is made to the briefs (paper numbers 22 and 25) and the answer (paper number 23) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain the 35 U.S.C. § 102(b) rejection of claims 1, 2, 4, 5, 11, 13 and 16 through 19. On the other hand, we will reverse the 35 U.S.C. § 102(b) rejection of

Appeal No. 2001-1269
Application No. 08/939,685

claims 3, 6 through 10, 12, 14, 15 and 20 through 22.

In order to anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. Glaxo Inc. v. Novopharm Ltd., 52 F.3d 1043, 1047, 34 USPQ2d 1565, 1567 (Fed. Cir.), cert. denied, 516 U.S. 3378 (1995). Appellants' arguments (reply brief, pages 2 and 3) to the contrary notwithstanding, all of the limitations of claim 1 are disclosed in Scholten. The acceleration chart disclosed by Scholten (Figure 5) clearly shows a temporary easing of the acceleration between the peak of the first acceleration curve and the valley between the first and second acceleration curves. Such an easement occurs during an acceleration period in which the optical system (i.e., the lens 20 and the mirror 22) are accelerating "to reach a predetermined running velocity" as claimed. With respect to claim 4, the noted second acceleration curve in Scholten indicates that the optical system "resumes accelerating at the same acceleration rate as before the driving velocity of the driving unit is controlled." Thus, the 35 U.S.C. § 102(b) rejection of claims 1 and 4 is sustained. The

Appeal No. 2001-1269
Application No. 08/939,685

35 U.S.C. § 102(b) rejection of claims 2, 5 and 11 is likewise sustained because appellants have not presented any separate patentability arguments for these claims.

The 35 U.S.C. § 102(b) rejection of claim 3 is reversed because the velocity curves disclosed by Scholten (Figure 4) do not show "a constant velocity during the easement period" discussed supra. The 35 U.S.C. § 102(b) rejection of claim 6 is reversed because Scholten does not create the noted easement period during the acceleration period "by holding the pulse rate at a predetermined pulse rate for a time period which is longer than a time period for preceding and succeeding pulse rates." The 35 U.S.C. § 102(b) rejection of claim 12 is reversed because the acceleration chart in Scholten does not show "a second easement period . . . additionally provided in the acceleration period."

For the reason set forth supra for claim 3, the 35 U.S.C. § 102(b) rejection of claims 7 through 10, 14 and 21 is reversed.

Appeal No. 2001-1269
Application No. 08/939,685

For the reasons expressed supra for claims 1 and 4, the 35 U.S.C. § 102(b) rejection of claims 13 and 19 is sustained. The 35 U.S.C. § 102(b) rejection of claims 16 through 18 is sustained because appellants have not presented any patentability arguments for these claims.

For the reason set forth supra for claim 12, the 35 U.S.C. § 102(b) rejection of claims 15, 20 and 22 is reversed.

DECISION

The decision of the examiner rejecting claims 1 through 22 under 35 U.S.C. § 102(b) is affirmed as to claims 1, 2, 4, 5, 11, 13 and 16 through 19, and is reversed as to claims 3, 6 through 10, 12, 14, 15 and 20 through 22. Accordingly, the decision of the examiner is affirmed-in-part.

Appeal No. 2001-1269
Application No. 08/939,685

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED-IN-PART

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
)	
HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

KWH:hh

Appeal No. 2001-1269
Application No. 08/939,685

MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, D.C. 20005-3096